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**DRAFT REGULAR MEETING MINUTES**  
**AUGUST 22, 2019**

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**1. CALL TO ORDER & ORDERS OF THE DAY**

**ROLL CALL**

**PRESENT:** Chair Karen Parsons, Vice Chair Ron Cabanayan, Commissioners Rajwant (Raji) Bains, Elizabeth Chien-Hale, and Timothy Kenny.

**ABSENT:** None.

**STAFF:** Board Secretary Karla Caceres, Code Enforcement Inspectors Tony Gonzalez, Carolyn Slezak, Acting Division Manager Oscar Carrillo, and Senior Deputy City Attorney Rosa Tsongtaatarii.

**CALL TO ORDER**

Chair Parsons convened the Appeals Hearing Board at 6:31 p.m. in Wing 118-120 at City Hall, 200 E. Santa Clara Street, San Jose, CA 95113.

**2. OPENING REMARKS AND APPROVAL OF MINUTES**

**APPROVAL OF MINUTES**

Documents Filed: Draft Meeting Minutes from Appeals Hearing Board Regular Meeting on July 25, 2019.

Action: Upon motion by Commissioner Bains, seconded by Vice Chair Cabanayan, and carried unanimously, the minutes for July 25, 2019 was approved. (5-0)

**3. REQUEST FOR DEFERRALS**

There was no request for deferrals.

**4. CONSENT CALENDAR**

There was no items on the Consent Calendar.

**5. DEFERRED AND/OR CONTINUED ITEMS**

There was no deferred and/or continued items.

## 6. PUBLIC HEARINGS

a. **867 PETER PAN AVENUE (484-36-070)– PROPOSED ABATEMENT**

(Tony Gonzalez, Code Enforcement Inspector/ David B. Gomez, Marcelina Rodriguez, Property Owner)

Documents Filed: Proposed Abatement Order and Notice of Hearing dated August 7, 2019.

Action: Code Enforcement Inspector Tony Gonzalez gave a summary of the inspection at the subject property. He stated that property owners are deceased and no one has stepped up and taken responsibility for the property.

Andrea Lopes, Neighbor to the property, gave testimony that there are homeless transients always coming in and out of the property and people are constantly throwing trash on the property.

Upon a motion by Vice Chair Cababnayan, second by Commissioner Bains and carried unanimously, to approve staff recommendations.(5-0)

b. **2220 BUSINESS CIRCLE (277-04-022) APPEAL OF DIRECTOR'S HEARING**

(Carolyn Slezak, Code Enforcement Inspector/ William Cefalu, Trustee under the William Cefalu Revocable Uta Dated March 22, 1996, Property Owner)

Documents Filed: Appeal of Director's Decision to the AHB dates August 6, 2019.

Action: Code Enforcement Inspector Carolyn Slezak gave testimony. She requested revisions to the Hearing Notice page 8 from September 23, 2019 to October 1, 2019. She stated that the Business Owner does not deny the late night use. There is evidence of internet postings and several police check-ins. She stated that there has not been any contact with the Property Owner during any of this time, just with the Business Owner.

Joseph Martinez, Business Owner, gave testimony. He stated that he does operate after hours, but based on his view is his violation needs to be fixed, but the City's violations have to be fixed also. He is being told he needs to obtain a Conditional Use Permit, but the City also has to clean up its City streets. He stated he cleans up Business Circle because the City does not.

Mary Cefalu, Property Owner, gave testimony. She stated that when they bought the property there was homelessness in the area. But when they rented to Joe Martinez he started cleaning up the area and he improved Business Circle.

Upon a motion by Commissioner Kenny, second by Commissioner Bains and carried unanimously that:

The Property and Business Owners shall immediately cease, upon issuance of the Board's resolution of this matter, operation of a business (other than an office use) between the

hours of 12:00 midnight and 6:00 a.m. until a Conditional Use Permit is approved by the City of San Jose.

On or before October 10, 2019, the Property Owner shall pay Administrative Costs to the City of San Jose in the amount of \$1,834.00.

If the business operates (other than office use) between the hours of 12:00 midnight and 6:00 a.m. without a valid Conditional Use Permit on or after October 11, 2019, the Property Owner shall pay Administrative Penalties to the City of San Jose, pursuant to San Jose municipal Code Section 1.14.090 in the amount of \$5,000; and additional Administrative Penalties in the amount of \$1,000 per day until the date of compliance, up to a maximum of \$100,000. If the Administrative Penalties are not paid and are recorded as a lien on the real property pursuant to San Jose Municipal Code Sections 1.14.160 and 1.14.180, as may be amended, an interest rate of ten percent (10%) per annum shall be charged on the principal amount of the administrative lien, from the date the lien is first recorded until the date that payment is received by the City, consistent with California Code of Civil Procedure Section 685.010, as may be amended. (5-0)

**7. REQUEST FOR EXCUSED ABSENCE**

There was no request for excused absence.

**8. OTHER BUSINESS**

There was no other business.

**9. PUBLIC COMMENT**

There was no public testimony on the floor.

**10. ADJOURNMENT**

Upon a motion by Commissioner Bains, seconded by Commissioner Kenny, and carried unanimously, the Hearing was adjourned at 8:02 p.m.